STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of ADRIENNE POWELL, LOREN VALENTINE HAMMOND, KRISTEN GRAY HAMMOND, ANTONIO HAMMOND, and CORBIN HAMMOND, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

WANETTA NNEKA POWELL,

Respondent-Appellant,

and

ANTONIO DEVALENTINO HAMMOND,

Respondent.

UNPUBLISHED
July 21, 2009

No. 289139
Wayne Circuit Court
Family Division
LC No. 03-416028-NA

Before: Davis, P.J., and Murphy and Fort Hood, JJ.

PER CURIAM.

Respondent-appellant Wanetta Powell (hereinafter "respondent") appeals as of right from the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(b), (g), (j), and (k)(iii).[1] We affirm.

The petitioner has the burden of proving a statutory ground for termination by clear and convincing evidence. *In re Trejo Minors*, 462 Mich 341, 355; 612 NW2d 407 (2000). We

[1] Although the trial court terminated respondent's parental rights to seven of her children, respondent did not appeal the trial court's order with respect to Nneka Powell or Allan Powell. Respondent was advised by this Court that if she intended for Nneka or Allan to be included within the scope of this appeal, she would need to "take appropriate action to expand the scope of the appeal." No further action has been taken. Thus, Nneka and Allan are not involved in this appeal.

review the trial court's findings under the clearly erroneous standard. MCR 3.977(J); *In re Trejo*, *supra* at 356-357. A finding is clearly erroneous when the reviewing court has a definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The trial court relied mostly on the severe physical abuse inflicted on respondent's niece to find that §§ 19b(3)(b)[2] and (k)(iii) were established, but the court also cited and reflected on the evidence concerning physical abuse of respondent's own children. The record clearly supports the trial court's finding that respondent's niece was subjected to severe physical abuse by both respondent and her boyfriend, respondent Antonio Hammond, and there was also record support for the finding that respondent's own children were physically abused. Section 19b(3)(b) is applicable only when a "child or a sibling of the child" has suffered physical injury or abuse, and § 19b(3)(k)(iii) similarly applies only when a parent has abused "the child or a sibling of the child." Respondent was not only her niece's aunt, but also her legal guardian. It does not appear that §§ 19b(3)(b) and (k)(iii) would be implicated as to abuse of the niece, despite the guardianship, because the abused niece was not technically respondent's child, nor a sibling of respondent's child. However, we need not address that issue because there was also physical abuse of respondent's actual children.

Moreover, termination of parental rights needs only be supported by a single statutory ground, *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991), and the trial court did not clearly err in finding that §§ 19b(3)(g) and (j) were each established by clear and convincing evidence. In addition to the severe physical abuse of respondent's niece, the evidence indicated that respondent abused alcohol to the extent that she frequently was unable to send her children to school. She also failed to provide the children with proper clothing or a proper home. The children were often left alone to care for themselves despite their young ages, or were left in the care of Hammond, who was an inappropriate caregiver. In addition, the severe abuse of respondent's niece was probative of how respondent would treat her own children. Thus, the trial court did not clearly err in finding that termination was warranted under §§ 19b(3)(g) and (j).

We disagree with respondent that petitioner improperly requested termination of her parental rights at the initial dispositional hearing instead of first providing her with services toward reunification. Petitioner need not provide services if it justifies its decision not to do so. See MCL 712A.18f(1)(b); *In re Terry*, 240 Mich App 14, 25 n 4; 610 NW2d 563 (2000). Where termination is requested at the initial dispositional hearing, petitioner is not required to develop a case service plan and offer services to reunify the family because the goal is termination. MCR 3.977(E); MCL 712A.19b(4); MCL 712A.18f(1)(b); *In re Terry*, *supra* at 25 n 4. Here, the severe physical abuse of respondent's niece coupled with the evidence that respondent had failed to benefit from services that were previously provided in a prior case, which involved physical abuse of another child, justified petitioner's decision to seek termination of respondent's parental rights at the initial dispositional hearing.

[2] We note that the trial court indicated on the record that it was relying on §§ 19b(3)(b)(i) and (ii), but specified in its written report that it was applying §§ 19b(3)(b)(ii) and (iii).

Also, contrary to respondent's argument, nothing in the record suggests that the trial court improperly considered alternative homes for the children before finding that a statutory ground for termination was established. *In re Foster,* 226 Mich App 348, 358; 573 NW2d 324 (1997).

Finally, notwithstanding respondent's alleged love for the children, the trial court did not clearly err in finding that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5); *In re Trejo, supra* at 356-357. Thus, the trial court did not err in terminating respondent's parental rights to the children.

Affirmed.

/s/ Alton T. Davis
/s/ William B. Murphy
/s/ Karen M. Fort Hood